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In the Supreme Court of the United States

OCTOBER TERM 1959

No. 119

JAMES IVEY WYATT, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINION BELOW

The opinion of the court of appeals (R. 47-58) is reported at 263 F. 2d 304 and modified at 263 F. 2d 311.

JURISDICTION

The judgment of the court of appeals was entered on January 14, 1959 (R. 58-59). The opinion was modified and a petition for rehearing was denied on February 18, 1959 (R. 61). The petition for a writ of certiorari was filed on March 19, 1959, and was granted on June 15, 1959, 360 U.S. 908. The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

QUESTION PRESENTED

1. Whether, in a Mann Act prosecution, a wife who is the woman transported may refuse to testify against her husband.

2. Whether petitioner's admissions that he transported the woman were sufficiently corroborated.

STATUTES INVOLVED

18 U.S.C. 2421 provides:

> Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or
>
> Whoever knowingly procures or obtains any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in

the District of Columbia or any Territory or Possession of the United States—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

18 U.S.C. 2422 provides:

Whoever knowingly persuades, induces, entices, or coerces any woman or girl to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and thereby knowingly causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

STATEMENT

Petitioner was convicted by a jury in the District Court for the Middle District of Alabama of transporting Mary Kathleen Byrd from Columbus, Georgia, to Dothan, Alabama, for the purpose of prostitution, in violation of the Mann Act, 18 U.S.C. 2421 (R. 1-2, 43). He was sentenced to three years' imprisonment

(R. 44).[1] The court of appeals unanimously affirmed (R. 47-59).

The government's evidence (petitioner presented no evidence) showed that petitioner was arrested by a Dothan city detective, Henry W. Hilson, on December 13, 1957, for a violation of the city code (R. 16). In the ensuing search, Hilson found that petitioner had two stubs of bus tickets from Columbus, Georgia, to Dothan, Alabama, dated December 12, 1957 (R. 17-18, 20, 63). Petitioner told Hilson that Mrs. Byrd had accompanied him to Dothan; that he had purchased the tickets in Columbus, Georgia; and that he "was going to Laguna Beach to see Mrs. Byrd's mother and he was just stopped over in Dothan" (R. 19).

A bellboy at the Martin Hotel in Dothan identified Mary Kathleen Byrd as having been in a room with petitioner on December 13, 1959 (R. 4-6). During one of the bellboy's calls to the room, petitioner asked him how business was and the bellboy said "What kind of business?" Petitioner responded "We are working, and if you get anything, to let us know" (R. 7). Mrs. Byrd then said, "You haven't had any business?", and the bellboy replied, "Yes'm, I had two this morning but I have turned them down" (*ibid.*).

Petitioner told the bellboy during another call, "We are going out for awhile, and if you have any business to be sure to hold it for us; we will be back after a little while" (R. 8). At a later visit, petitioner, in Mrs. Byrd's presence, told the bellboy that "you know a man when you see him," that they would "split fair" with him, dividing "Forty sixty," and that "If busi-

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[1] Petitioner had previous convictions of violating the Mann Act and other felonies (R. 45-46).

ness increases, we will do better, we will split fifty fifty" (R. 9). Still later, Mrs. Byrd said to the bellboy in the presence of petitioner, "How about the business, there ain't no business" (R. 10, 11).

When the government called Mary Kathleen Byrd, she stated (R. 22-23) that her name was Mary K. Wyatt, that petitioner was her husband, and that

> I have here in my possession my marriage license that I would like to present to the court, and I refuse to testify in this case against my husband.

The trial judge rejected this ground for refusing to testify, stating "that the old common law privilege that gave a wife the right to refuse to testify did not exist in a White Slave Traffic Act case, where the wife is the alleged victim" (R. 23). Government counsel then stated that he would like to try to prove that Mrs. Byrd was not married to petitioner, but the court ruled that this fact would not make any difference (*ibid.*).

Mrs. Byrd then testified that she came to Dothan on the bus with petitioner, but that she paid for her ticket which he purchased (R. 23-24). Thereafter, the court allowed the government to cross-examine Mrs. Byrd because she was "so obviously antagonistic" (R. 26). Mrs. Byrd testified that she gave a statement to the F.B.I. which admitted that, after she rode from Columbus, Georgia, to Dothan, she registered at the Martin Hotel with petitioner as "Mr. and Mrs. James Wyatt" (*ibid.*). The statement further said, and she admitted, that after a few minutes in petitioner's room she left for the Houston Hotel (also in Dothan) where-

she registered as "Mary K. Byrd" (R. 26-27).[2] She denied any conversations with the bellboy at the Martin Hotel as to "business" (R. 27-28).[3]

An F.B.I. agent testified that in two separate interviews (on December 14 and 15, 1957) petitioner stated that he had purchased the bus tickets; that he and Mrs. Byrd had left Georgia together and had spent the night together at the Hotel Martin in Dothan; that they were going to Laguna Beach to see his mother-in-law; and that the next afternoon, after they had a quarrel about petitioner's drinking, she had left (R. 30-33). Petitioner first told the agent that he was married to Mary Kathleen Byrd on November 15, 1957 (R. 31), but later said that he was not married to her when the trip took place in December, 1957 (R. 32).

SUMMARY OF ARGUMENT

I

A. In declining last Term to modify the common law rule prohibiting one spouse from testifying against the other, this Court recognized that "the rule does not apply 'where the husband commits an offence against the person of his wife.'" *Hawkins* v. *United States*, 358 U.S. 74, 75. It is settled in the lower federal courts that the interstate transportation of a wife for immoral purposes is a crime against her "person" within that exception, and that she may therefore testify against her husband in a Mann Act prosecution.

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[2] The trial judge refused to allow the government to show what Mrs. Byrd said or did at the Houston Hotel in the absence of petitioner (R. 15-16, 21-22, 28-29).

[3] At the conclusion of Mrs. Byrd's testimony, petitioner moved to exclude it "[j]ust for the sake of the record" (R. 30). The court overruled the motion *(ibid.)*.

In the only other case which has considered whether such testimony may be compelled, it was held that it may be. *Shores* v. *United States*, 174 F. 2d 838 (C.A. 8).

Petitioner does not challenge the settled rule that a transported wife may testify against her husband in a Mann Act case. He contends only that she may not be compelled to do so, and that her testimony is not admissible where she married him after the offense. His argument is that the reason for the exception is the doctrine of "necessity," *i.e.*, that otherwise a husband's crimes against his wife might go unpunished; and that there is no "necessity" for such testimony here. The Government contends, however, that the exception has a broader basis; and that allowing a transported wife to refuse to testify against her husband would thwart a basic Congressional purpose in the Mann Act "to protect women who were weak from men who were bad" (*Denning* v. *United States*, 247 Fed. 463, 465 (C.A. 5)).

B. Congress specifically provided in the Mann Act that the consent of the woman transported is immaterial. Since the testimony of such a woman frequently is essential to a successful Mann Act prosecution, the practical effort of giving the transported wife the option of deciding whether to testify against her husband frequently would be to place in her hands the decision whether he should be punished for his crime. To permit a consenting wife thus to insulate her husband from successful prosecution would be at odds with the Congressional declaration that consent is immaterial. In these circumstances, where the crime not only is against the person of the wife but profanes the very essence of the marriage relationship, we sub-

mit that any possible injury that may result to that relationship by compelling the wife to testify against her husband is outweighed by the public interest in punishing violations of the Mann Act.

In the *Hawkins* case, *supra*, this Court specifically rejected an attempt by the Government to distinguish between voluntary and compelled testimony by the wife against the husband. Thus, if the injured wife's testimony is admissible against the husband—and we believe that it clearly is in Mann Act cases—it should be immaterial whether such testimony is given voluntarily or involuntarily.

C. The same considerations that justify compelling the wife's testimony against her husband also require rejection of petitioner's contention that such testimony is inadmissible where she marries him after the offense. Since the consent of the woman is immaterial under the Mann Act, she cannot "condone" her illegal transportation by subsequently marrying the man. The public interest strongly dictates against, rather than in favor of, permitting a subsequent marriage to bar the transported woman's testimony against her husband in Mann Act cases. For "the purpose of Congress ["to protect 'weak women from bad men' "] would be thwarted if the woman's lips were sealed against a vicious and degraded man just because he may have induced the 'weak woman' to marry him, probably in contemplation of evading justice by reason of the very rule which is now sought to be invoked" (*United States* v. *Williams*, 55 F. Supp. 375, 380 (D. Minn.)).

II

Petitioner's admissions to state and federal law officers that he transported the woman in question

across state lines were sufficiently corroborated. Not only did the woman testify that she accompanied petitioner on the interstate bus journey (and, as we have argued in Point I, such testimony was properly admitted), but two bus stubs found in petitioner's coat pocket at the time of his arrest covered the precise transportation which he admitted. This evidence "supports the essential facts admitted sufficiently to justify a jury's inference of their truth" (*Opper* v. *United States*, 348 U.S. 84, 93).

ARGUMENT

I

A Wife May Be Compelled to Testify Against Her Husband in a Mann Act Prosecution in Which She Is the Woman Transported

Unlike *Hawkins* v. *United States*, 358 U.S. 74, where this Court at the last Term was asked, but declined, to modify the common law rule prohibiting one spouse from testifying against the other, this case presents no broad issues of possible modification of the privilege. It involves only the narrow question of the scope to be given the exception, which this Court recognized in *Hawkins* (p. 75), that "the rule does not apply 'where the husband commits an offense against the person of the wife.'" Specifically, the issue is whether the Court should apply the settled federal rule that a transported wife is a competent witness against her husband in a Mann Act prosecution (see *infra*, pp. 11-12) to a situation where the wife's testimony is compelled rather than given voluntarily.

Petitioner does not appear to challenge the many cases holding that the interstate transportation of

a wife for immoral purposes is an offense against her "person." He contends (Pet. 10-14) only that the exception is inapplicable where the wife's testimony is compelled, or where the defendant and the woman transported were not married at the time of the offense (which, he urges, is the case here). We shall show that neither of these attempted distinctions has merit. First, however, we shall briefly indicate the basis and scope of the rule permitting an exception to spousal privilege in cases of offenses against the person of the wife, and the theory upon which this exception is applied to Mann Act cases.

A. The ancient common law rule "that husband and wife were incompetent as witnesses for or against each other" was "accepted at an early date as controlling in this country" (*Hawkins* v. *United States*, 358 U.S. 74, 75). The rule rested on "a belief that such a policy [of refusing "to pit wife against husband or husband against wife in a trial where life or liberty is at stake"] was necessary to foster family peace, not only for the benefit of husband, wife and children, but for the benefit of the public as well" (*id.*, p. 77).

For more than three centuries, however, there has been a settled exception: "[I]n a criminal cause * * * where the wife is the party grieved, and on whom the crime is committed, she is to be admitted a witness against her husband." *Trial of Mervin Lord Audley*, 3 How. St. Tr. 401, 414 (1631).[4] The exception was recognized by this Court in 1839, as covering cases "where the husband commits an offence against the

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[4] In *Lord Audley's* case, the wife was permitted to testify against her husband in his trial for having caused his servants to rape her.

person of his wife." *Stein* v. *Bowman*, 13 Pet. 209, 221. See, also, *Lucas* v. *Brooks*, 18 Wall. 436, 452-453 (a wife may testify against her husband "in criminal cases where he is prosecuted for wrong done to her * * *"); *Hawkins* v. *United States*, *supra*, p. 75. The exception has been accorded wide recognition in this country, in various situations involving different kinds of injury to the wife (see Wigmore, *Evidence* (3rd Ed.), vol. 8, § 2239), and has been applied to compel testimony by the wife against the husband.[5]

Shortly after the passage of the Mann Act in 1910, the question arose whether the transportation of the wife for immoral purposes constitutes an offense against her "person" within the meaning of this exception. In holding that it does, and that she may therefore testify against the husband, a district court stated (*United States* v. *Rispoli*, 189 Fed. 271, 273 (E.D. Pa., 1911)):

> * * * [T]he offense in question was essentially within the spirit of the long-established rule that allows her to testify in protection or in vindication of her right to be secure in her person against threat or assault, even by her husband.

See, also, *Cohen* v. *United States*, 214 Fed. 23, 29 (C.A. 9), certiorari denied, 235 U.S. 696:

> * * * the personal injury to a wife which permits the admission of her testimony against her husband * * * is not confined to cases of personal

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[5] *Rex* v. *Lapworth*, (1931) 1 K.B. 117; *Turner* v. *State*, 60 Miss. 351; *Bramlette* v. *State*, 21 Tex. App. 611, 2 S.W. 765; *Navarro* v. *State*, 24 Tex. App. 378, 6 S.W. 542, Bishop, *New Criminal Procedure* (2d ed., 1913), vol. 2, sec. 1153.

> violence, but may include cases involving a tort against the wife, or a serious moral wrong inflicted upon her, and that in a case of the prosecution of a man for bringing his wife from one state to another with intent that she shall practice prostitution, in violation of the White Slave Act, his act in so doing is such a personal injury to her as to entitle her to testify against him. * * *

Every circuit which has passed upon the question today holds that testimony by the transported wife is admissible against her husband in a Mann Act prosecution. *United States* v. *Mitchell*, 137 F. 2d 1006 (C.A. 2); *Denning* v. *United States*, 247 Fed. 463 (C.A. 5); *Levine* v. *United States*, 163 F. 2d 992 (C.A. 5); *Shores* v. *United States*, 174 F. 2d 838 (C.A. 8); *Cohen* v. *United States*, *supra*; *Pappas* v. *United States*, 241 Fed. 665 (C.A. 9); *Hayes* v. *United States*, 168 F. 2d 996, 997 (C.A. 10); see, also, *Alford* v. *Territory of Hawaii*, 205 F. 2d 616, 619 (C.A. 9).[6] The district courts similarly have permitted such testimony. *E.g.*, *United States* v. *Bozeman*, 236 Fed. 432 (W.D. Wash.); *United States* v. *Williams*, 55 F. Supp. 375 (D. Minn.); *Wilhoit* v. *Hiatt*, 60 F. Supp. 664 (M.D. Pa.).[7] And, in the only case other than the instant one which has considered the problem (*Shores*, *supra*), it was held

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[6] The earlier contrary decision of the Eighth Circuit in *Johnson* v. *United States*, 221 Fed. 250, was expressly overruled in the *Shores* case, *supra*, p. 841.

[7] *United States* v. *Gwynne*, 209 Fed. 993 (E.D. Pa.), recognized that such testimony would be admissible if the man and woman were married at the time of the transportation, but held it inadmissible where they were married after the offense. We think that the distinction is unsound. See *infra*, pp. 17-18.

that the wife may be compelled to give such testimony. See *infra*, pp. 13-17.

The exception permitting the wife to testify against the husband where he is charged with a crime against her person originally was explained as a rule of "necessity," *i.e.*, otherwise a husband's crimes against his wife might go unpunished. See Wigmore, *Evidence* (3rd Ed.), vol. 8, § 2239. But this theory does not adequately explain many of the applications of the exception. *Ibid.* Thus, the wife's testimony may be admitted against the husband even where there is no "necessity" for it because there is other evidence to establish the offense; and it may be excluded despite the compelling "necessity" that the offense cannot be proven without it.[8] It has been suggested that, if the basis of spousal privilege is the preservation of family peace, an exception is justified where family peace has ceased to exist, or where there is no family peace worthy of the law's protection (Wigmore, *supra;* see, also, *Soule's Case*, 5 Me. 407). We believe that in Mann Act cases the exception rests upon the further ground that it is necessary to effectuate the basic Congressional design of that statute, and cannot be explained solely on the basis of "necessity."

B. The legislative history of the Mann Act shows that a "primary purpose * * * was to protect women who were weak from men who were bad" (*Denning* v. *United States*, 247 Fed. 463, 465 (C.A. 5)). See, *e.g.*, H. Rep. No. 47, 61st Cong., 2d Sess., pp. 10, 11; S. Rep. No. 886, 61st Cong., 2d Sess., p. 10; 45 Cong. Rec. 821, 1037; *Mortensen* v. *United States*, 322 U.S. 369, 377. In order to effectuate this purpose, Congress specifi-

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[8] See *Bentley* v. *Cooke*, 3 Doug. 422, 423.

cally provided in the Act that the consent of the woman transported was immaterial. 18 U.S.C. 2422. Congress thus made the determination that the white slave traffic was so nefarious and injurious to the public welfare than even its "willing" victims require protection. And, as one court pointed out in holding that a transported wife may testify against her husband in a Mann Act case, "the purpose of Congress would be thwarted if the woman's lips were sealed against a vicious and degraded man just because he may have induced the 'weak woman' to marry him * * *" (*United States* v. *Williams*, 55 F. Supp. 375, 380 (D. Minn.)).

We submit that it would similarly thwart the Congressional design if a wife is permitted to refuse to testify against her husband charged with illegally transporting her for purposes of commercial vice. The testimony of the transported woman frequently is essential to a successful Mann Act prosecution. Thus, in many cases the practical effect of permitting a wife to decide whether to testify would be to place in her hands the decision whether her husband should escape punishment for his crime. Congress, however, has decided that the statute is violated whether or not the wife consents to being transported. To permit a consenting wife to insulate her husband from punishment by declining to testify against him would be at odds with this Congressional plan. As the court stated in *United States* v. *Williams*, 55 F. Supp. 375, 378 (D. Minn.):

> * * * For a court to declare that such consent could not only prevent the transported wife from testifying, but also prevent the husband's convic-

> tion for the crime (and the court would be saying this where the transported wife was the only witness), obviously would be thwarting both the spirit and the purpose of this section. The procedural and substantive law policies must agree if the public welfare is to be protected according to the intent of Congress.

In these circumstances, where the crime not only is against the person of the wife but profanes the very essence of the marriage relationship,[9] we submit that any possible injury that may result to that relationship by compelling the wife to testify against the husband is outweighed by the public interest in punishing those depraved men who engage in such activities. Since Congress has determined that the public interest is harmed when a woman is transported in interstate commerce for immoral purposes even with her consent, she is necessarily "injured" by such transportation. Accordingly, there is the same public "necessity" for protecting her against illegal transportation whether she is a willing or unwilling victim. In either case, the public interest requires that her testimony be given and received against her husband.

This Court specifically rejected the attempt to distinguished between voluntary and compelled testimony by the wife against the husband in the *Hawkins* case, *supra*. There the Government urged the Court to "modify the rule ["forbidding one spouse to testify against the other"] so that while a husband or wife

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[9] In *United States* v. *Bitty*, 208 U.S. 393, 401, the Court stated that the "lives and example" of prostitutes "are in hostility to 'the idea of the family, as consisting in and springing from the union for life of one man and one woman in the holy estate of matrimony * * *.'"

will not be compelled to testify against the other, either will be free to do so voluntarily." The Court held, however, that "[n]othing in this Court's cases supports such a distinction between compelled and voluntary testimony, and it was emphatically rejected in *Stein* v. *Bowman, supra,* a leading American statement of the basic principles on which the rule rests" (350 U.S., p. 77); and it pointed out (*id.*, p. 75) that in *Stein* "the Court emphasized that no exception left spouses free to testify for or against each other merely because they so desired." In other words, if the injured wife's testimony is admissible against the husband (and it clearly is, see *supra,* pp. 11-12), it is immaterial whether such testimony is given voluntarily or involuntarily.

In the only prior case which deals specifically with this problem, the Court of Appeals for the Eighth Circuit upheld compulsory testimony by a transported wife in a Mann Act case against her husband. *Shores* v. *United States,* 174 F. 2d 838. The court pointed out (p. 841) that:

> * * * The public policy involved, under which it was deemed of more importance to leave the wife's testimony available in the class of offenses encompassed by the exception, than to cloak it with the privilege of the rule, necessarily had as its underlying basis the interest of society generally, and not simply that of the wife individually, so that the wife, not being within the privilege of the rule as to any excepted offenses, naturally in such a situation stood in the same position as any other victim of another's criminal act, in the matter of the state's right to compel her to testify. * * *

And it ruled (*ibid.*) that

> * * * the wife herself, like any other witness, was without privilege in the situation to say whether she did or did not wish to testify. * * *

C. The same considerations that justify compelling the wife's testimony against her husband also require rejection of petitioner's contention (Br. 10-12) that such testimony is inadmissible where she marries him after the offense was committed. Although petitioner recognizes (Br. 10) that the record is "equivocal" whether petitioner and Mrs. Byrd were married when the crime was committed,[10] he argues (Br. 11) that the court below decided the question on the assumption that they were not, and he urges this Court to do likewise. While we agree that the date of the marriage cannot be determined from this record, we submit that, even if petitioner and Mrs. Byrd were married after the offense was committed, that would not justify her refusal to testify.

The theory upon which petitioner argues that a valid marriage subsequent to the crime precludes the wife from testifying against her husband is that by marrying him the wife has condoned his misconduct toward

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[10] When Mrs. Byrd declined to testify, the district court would not let the Assistant United States Attorney examine the marriage license, on the ground that "as far as the refusal to testify is concerned * * * it doesn't make any difference" "whether she is married or not married to him" (R. 23). Similarly, the court rejected the Government's suggestion that "we would like to offer to try to prove she is not actually married to this defendant" (R. 23). In his statements to the F.B.I., petitioner first stated that he had married Mrs. Byrd approximately one month before the offense (R. 31), and then that he was not married to her at that time (R. 32).

her, and that "she is not that helpless victim for whom the exception was made" (Br. 10). He relies (Br. 11) upon state cases holding that, with respect to certain other crimes against the woman, she condones the offense by subsequently marrying the man. But, as we have pointed out (see *supra*, pp. 13-14), the consent of the woman is immaterial under the Mann Act. The woman, therefore, cannot "condone" the illegal transportation by thereafter marrying the man. Moreover, while the woman cannot be deemed initially to have consented to the injuries to her person involved in the state cases, here she apparently agreed to being transported. "Consequently, as far as the woman was concerned, there was nothing to forgive by the marriage" (*United States* v. *Williams*, 55 F. Supp. 375, 380 (D. Minn.)). Finally, the exception permitting a transported wife to testify against her husband is not based merely upon the "necessity" of providing her with redress against her husband's wrongs toward her, but on the broader public policy of effectuating the design of the Mann Act. See *supra*, pp. 13-15.

Indeed, the public interest strongly dictates against, rather than in favor of, permitting a subsequent marriage to bar the transported wife's testimony against her husband in Mann Act cases. For, as one district court pointed out in rejecting petitioner's contention, "the purpose of Congress ["to protect 'weak women from bad men' "] would be thwarted if the woman's lips were sealed against a vicious and degraded man just because he may have induced the 'weak woman' to marry him, probably in contemplation of evading justice by reason of the very rule which is now sought to be invoked" (*United States* v. *Williams*, *supra*).

Accordingly, we urge this Court, "in the light of reason and experience" (Rule 26, Federal Rules of Criminal Procedure; see *Lutwak* v. *United States*, 344 U.S. 604, 614-615), to interpret the common law as requiring the transported wife, if called, to testify against the husband in Mann Act cases—whether the marriage took place before or after the crime, and whether the wife is a willing or unwilling witness.

II

Petitioner's Admissions That He Transported the Woman Across State Lines were Amply Corroborated

Petitioner argues (Br. 15) that, apart from the testimony of the wife, there was insufficient corroboration of his admissions to the local city detective (R. 19) and to the F.B.I. (R. 30-33) that he had purchased the bus tickets for the interstate journey, and had travelled with her from Columbus, Georgia, to Dothan, Alabama. However, if we are correct in our contention that the wife's testimony against her husband was properly received, such testimony, together with the other evidence, adequately corroborated the admissions. If, on the other hand, the Court holds that admission of the testimony was reversible error, the question of corroboration would be academic.

Evidence corroborating admissions "need not be sufficient, independent of the statements, to establish the *corpus delicti*. * * * It is sufficient, if the corroboration supports the essential facts admitted sufficiently to justify a jury inference of their truth. Those facts plus the other evidence besides the admission must, of course, be sufficient to find guilt beyond a reasonable doubt." *Opper* v. *United States*, 348 U.S.

84, 93; see *Smith* v. *United States*, 348 U.S. 147, 151-159; cf. *United States* v. *Calderon*, 348 U.S. 160. The admissions of interstate transportation were corroborated by (1) the bus tickets found in petitioner's pocket when he was searched, which covered the precise transportation which he admitted; and (2) the wife's testimony that she had travelled with him on the interstate trip (R. 17-18, 20, 23-24, 26, 63). We submit that this evidence "supports the essential facts admitted sufficiently to justify a jury's inference of their truth" (*Opper, supra*).

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment of the court of appeals should be affirmed.

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